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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)

Revision of Part 22 and Part 90)
of the Commission's Rules to)
Facilitate Future Development)
of Paging Systems)

WT Docket No. 96-18

Implementation of Section 309(j))
of the Communications Act --)
Competitive Bidding)

PP Docket No. 93-253

**REPLY COMMENTS OF
MOBILE TELECOMMUNICATION TECHNOLOGIES CORP.**

Mobile Telecommunication Technologies Corp. and its subsidiary, SkyTel Corporation (collectively, "Mtel")^{1/}, by their attorneys and pursuant to Sections 1.415 and 1.419 of the Commission's rules, respectfully submit their Reply Comments in response to the Commission's Notice in the captioned proceeding.^{2/}

I. INTRODUCTION

First and Foremost, Mtel strongly urges the Commission to favorably act upon its prior recognition of the nationwide

^{1/} Mtel and its subsidiaries, including SkyTel and Destineer Corp. ("Destineer"), are Commission licensees providing a wide range of high technology wireless communications services. SkyTel holds a common carrier nationwide paging license and multiple non-network paging licenses operating over frequency 931.4375 MHz on a nationwide basis. Destineer was awarded a Pioneer's Preference to operate an advanced nationwide wireless network in the narrowband PCS and is currently the only nationwide narrowband PCS service provider. Accordingly, Mtel is well positioned to provide the Commission with informed comment in this proceeding.

^{2/} Notice of Proposed Rulemaking, in WT Docket No. 96-18 and PP Docket No. 93-253, 61 Fed. Reg. 6199 (February 16, 1996) ("Notice"). In the Notice, the Commission requested that comments be filed by March 18, 1996, and that reply comments be filed by April 2, 1996. Accordingly, these reply comments are timely filed.

Noted for record

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geographic character of frequency 931.4375 MHz by designating it as nationwide. This designation will promote regulatory parity, formalize the operational status of the channel and serve the public interest.

Mtel also reasserts its support of the Commission's proposal for geographic licensing on an MTA basis and the exclusion from its geographic licensing plan those channels that already have been assigned to single licensees on a nationwide basis. Also, Mtel affirms its position that the interference and service contours should continue to be calculated utilizing existing rules. It suggests that incumbent licensees should not only receive ample protection from new geographic licensees, but should also be provided with some type of preference to receive a geographic license in lieu of competitive bidding, provided this meets certain coverage requirements.

II. REDESIGNATING 931.4375 MHZ ON A NATIONWIDE BASIS WILL FACILITATE REGULATORY PARITY

Mtel strongly supports the Commission's proposal to redesignate channel 931.4375 MHz on a nationwide basis and exempt it from the geographic licensing proposal. A grant of this proposal would promote the Commission's goal of creating regulatory parity among Common Carrier Paging ("CCP") and Private Carrier Paging ("PCP") service providers and would facilitate the creation of a level playing field for carriers licensed in the different services.

Several Commenters provided their qualified support to this proposal so long as the Commission accords other similarly situated

licensees the same opportunity for nationwide status.^{3/} For example, MobileMedia incorporates many of Mtel's previous comments into its own and also undertakes to demonstrate how it operates a "de facto" nationwide channel similar to Mtel. See MobileMedia Comments at 21 and 22.

Mtel appreciates and supports the idea that similarly situated licensees should be treated the same. But Mtel submits that a fundamental difference exists between its operation of 931.4375 MHz and the similar "de facto" nationwide operations of other licensees. Mtel is the only licensee operating on 931.4375 MHz and its designation as a nationwide channel would not negatively affect any other party. The Commission has recognized that Mtel operates frequency 931.4375 MHz in concert with its nationwide network paging frequency (931.9375 MHz) to provide high quality nationwide paging service^{4/} and this high quality nationwide service would become significantly impaired if 931.4375 MHz is not designated as a nationwide channel. Other "de facto" nationwide channels may have multiple co-channel licensees which could be adversely

^{3/} See e.g., Joint Comments of Arch Communications Group and WestLink Licensee Corporation at 5, Airtouch Paging at 9, MobileMedia at 21, United Paging Resources at 3, and American Paging at 2.

^{4/} See Mobile Telecommunication Technologies Corp., 6 FCC Rcd 1938, recon. 7 FCC Rcd 4061 (1992) ("Mtel Order") where the Commission preempted state entry, technical and rate regulation of Mtel's integration of proposed nationwide and multi-state wide-area paging service on frequency 931.4375 MHz into its existing nationwide paging network on frequency 931.9375 MHz. See also In re Amendment of Sections 22.505 and 22.506 of the Commission's Rules, 8 FCC Rcd 2796 (1993) where the Commission allowed Mtel to operate 931.4375 MHz at a higher ERP.

affected if the channels are licensed on a nationwide basis to another entity.

Mtel's unique use of 931.4375 MHz warrants redesignation on a nationwide basis. The other "de facto" nationwide channels should be licensed on a nationwide basis only with the written consent of co-channel licensees which may be adversely impacted, or if their existing operations are otherwise accorded some protection.

PageNet, a nationwide competitor of Mtel, opposes the treatment of 931.4375 MHz as a nationwide channel. It contends that Mtel does not enjoy a nationwide license, and that the Commission has not considered any other substantially built out non-nationwide 931 MHz channels for this exempt status.^{5/} As set forth above, Mtel welcomes the licensing on a nationwide basis of similarly situated channels so long as existing co-channel licensees are given some protection for their operations. However, Mtel does take issue with PageNet's unfounded statements that Mtel's 931.4375 MHz channel is not a nationwide channel. Indeed, as shown above the Commission has previously noted Mtel's unique "nationwide" use of this frequency. Further, the Commission expressly stated in the Mtel Order that the Commission's rules do not limit the use of this channel to local paging, nor do the rules

^{5/} See, Comments of PageNet at 53, where PageNet further submits that unless the Commission is willing to consider other substantially constructed 931 MHz local channels as eligible for a nationwide license, and is willing to award there carriers nationwide licenses, it cannot exempt local channel 931.4375 MHz from the geographic licensing process.

prohibit use of the channel for nationwide paging service. See, 7 FCC Rcd at 4061.

As Mtel stated in its Comments, the Commission has granted exclusivity on a local, regional and nationwide basis to PCP licensees operating multi-site systems based on aggregate area covered by their sites.^{6/} SkyTel is currently licensed to operate over 700 transmitters over the frequency 931.4375 MHz in over two hundred of the nation's largest markets which is far more than necessary to qualify SkyTel for nationwide exclusivity on 931.4375 MHz if it were a PCP channel. PCP licensees with nationwide exclusivity are now free to design and construct their systems on their assigned frequencies without concern that other applications could be filed thus frustrating their plans for enhancement and growth of their systems. Yet, absent the Commission implementing its proposal to redesignate 931.4375 MHz on a nationwide basis, SkyTel would be at an enormous competitive disadvantage to its PCP competitors in that it would not be permitted to expand its system.

The redesignation of 931.4375 MHz would serve the public interest and would not adversely impact any other party. Accordingly, Mtel encourages the Commission to redesignate 931.4375 MHz as a nationwide channel.

^{6/} The Commission decided that in order to obtain nationwide exclusivity a system must consist of at least 300 transmitters, provide service to 50 markets, including 25 of the top 50 markets, and serve at least two markets in each of the seven regions modelled on the RBOC regions. See PCP Exclusivity Order in PR Docket No. 93-35, 8 FCC Rcd 8318 (1993).

**III. REVISION OF THE COMMISSION'S RULES TO PROVIDE FOR
GEOGRAPHIC LICENSING WOULD SERVE THE PUBLIC INTEREST**

The Commission's proposal to implement geographic licensing for CCP and PCP licensees received significant comment from the paging industry. The majority of the commenting parties favor geographic licensing differing only on whether geographic licenses should be issued on an MTA or BTA basis. There was also widespread support of the Commission's proposal to exempt licenses that have already been assigned on a nationwide basis.

**A. Geographic Licensing on an MTA Basis
Generally Will Serve the Public Interest**

In its comments, Mtel supported the Commission's proposal to utilize geographic licensing for 931 and 929 MHz paging channels on an MTA basis.^{2/} See Mtel Comments at 6. Mtel noted that geographic licensing will prove to be beneficial to the public and to licensees as it streamlines a licensee's regulatory filing requirements and application processing delays. The majority of comments reviewed by Mtel agreed with the Commission's choice of MTAs because they are economically defined regions that appear to

^{2/} See, Notice at para. 24. and at para. 25 where the Commission noted that licensees would be extended the same flexibility, to the extent feasible, as cellular and PCS licensees in terms of the location, design, construction and modification of their facilities throughout their geographic areas. The use of pre-defined service area boundaries would eliminate the need for licensees to notify the Commission of changes in a system's coverage in their respective geographic area and a geographic licensee also would be able to self-coordinate system modifications within their service areas, i.e., to add, subtract, move, and other wise modify their base station facilities, without prior Commission approval or notification.

best mirror the size and development of existing paging systems.^{8/} However, there was also ample support for geographic licensing on a BTA basis.^{9/} In its comments, MobileMedia submitted that paging systems in many communities are dwarfed by the MTAs that contain them and accordingly an MTA may contain multiple individual market areas. See Comments of MobileMedia at 19.

Mtel remains supportive of geographic licensing on an MTA basis, but would also suggest that there may exist an opportunity for a hybrid MTA/BTA licensing scheme where there may be several separate concentrated paging systems within an MTA on a particular frequency. For example, in any MTA where there are multiple paging systems but none covers 50% of the MTA, the Commission could divide that MTA into BTA regions and still comply with the spirit of its geographic licensing proposal.

B. Nationwide Frequencies Should Be Exempt From Geographic Licensing

Mtel continues to strongly endorse the Commission's proposal to use geographic licensing for 931 and 929 MHz channels, and to exclude from this plan channels that already have been assigned to licensees on a nationwide basis under the existing rules.^{10/} Of

^{8/} See, e.g., Joint Comments of Arch Communications Group and Westlink Licensee Corporation at 6, Airtouch Paging at 7, AT&T Wireless at 4, American Paging at 3, Paging Network at 4, and Pacific Telesis at 2.

^{9/} See, e.g., Comments of MobileMedia at 19, Source One at 2, Paging Partners at 3 and MetroCall at 7.

^{10/} See, Notice at para. 26. The Commission proposes to exclude the three CCP channels (931.8875, 931.9125 and 931.9375 MHz) dedicated for nationwide use and all PCP channels for which
(continued...)

the parties commenting on this particular matter, there was total support for the Commission's proposal.^{11/} These parties concurred with Mtel's position that these nationwide authorizations are already geographic in nature and present no opportunity for licensing to others.

C. The Method of Calculating Existing Interference and Service Contours Should Not Be Modified

Mtel did not support the Commission's proposal to replace the existing definition of service and interference contours for 929 MHz and 931 MHz paging facilities based on circles and standard radii with a mathematical formula that generates an eight cardinal contour.^{12/} Mtel urged that the proposal be retracted because it would have the unintended effect of reducing the size of both service and interference contours of most existing and proposed 931 MHz paging stations.

There was ample support of Mtel's position that implementation of the Commission's proposed formula would impose financial burdens on licensees to redesign their systems as well as face the

^{10/} (...continued)

licensees have met the construction requirements for nationwide exclusivity as of the adoption date of this Notice.

^{11/} See e.g., Joint Comments of Arch Communications Group and Westlink Licensee Corporation at 5, Airtouch Paging at 9, MobileMedia at 21, American Paging at 2, and Paging Network at 52.

^{12/} See, Notice at para. 50. The Commission tentatively concluded that the eight-radial contour method "may be preferable to a fixed radius method, because it will more reasonably predict potential interference to incumbents and provide geographic licensees with greater flexibility in placing their facilities."

shrinkage of the geographic area protected by the existing interference contour rules.^{13/} In their Joint Comments at 13, Arch and Westlink, also point out that a transition to the formula would be further complicated by prior Commission actions which eliminated the requirement that licensees submit to the Commission applications for interior sites. These fill-ins that qualified as interior sites under the existing rules might not remain interior if their parameters and those of exterior sites need to be recalculated under the Commission's proposal. Clearly this would cause problems as licensees seek to protect sites that may not be matters of public record with the Commission.

Mtel submits there is ample support for the Commission to abandon its "eight-radial contour method" proposal and consistent with the existing interference tables, treat all 929 and 931 MHz transmitters as having service contours of 20 miles and interference contours of 70 miles.

IV. CONCLUSION

As Mtel demonstrated in its comments, the designation of 931.4375 MHz on a nationwide basis would serve the public interest. Indeed, no comments filed in this proceeding even remotely suggested that any party would be adversely effected by this action. More importantly, it would formalize the actual operational status of this frequency, and would be consistent with

^{13/} See e.g., Joint Comments of Arch Communications Group and Westlink Licensee Corporation at 10, Airtouch Paging at 23, AT&T Wireless at 10, Source One at 3, MetroCall at 9 and Paging Network at 11.

Commission policy. Thus, it will contribute to the more efficient use of the Commission's resources and serve the public interest.

Mtel submits that the public interest would best be served by the Commission implementing its geographic licensing proposals consistent with Mtel's comments in this proceeding. The benefits provided by the Commission's proposals to streamline the paperwork burden should have an immediate and positive impact on the paging industry.

Respectfully submitted,

MOBILE TELECOMMUNICATION
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and

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